

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

House Engrossed
FILED
JANICE K. BREWER
SECRETARY OF STATE

CHAPTER 51

HOUSE BILL 2357

AN ACT

AMENDING SECTION 28-5610, ARIZONA REVISED STATUTES; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-5610, Arizona Revised Statutes, is amended to read:

28-5610. Exemptions

A. The following are exempt from motor vehicle fuel and use fuel taxes imposed by section 28-5606 and aviation fuel taxes imposed by section 28-8344:

1. Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper or bill of lading and that is either:

- (a) Exported by a supplier who is licensed in the destination state.
- (b) Sold by a supplier to a distributor for immediate export.

2. Motor fuel that was acquired by a distributor, as to which the tax imposed by this article or section 28-8344 has previously been paid or accrued and that was subsequently exported by transport truck by or on behalf of the distributor in a diversion across state boundaries properly reported to the department. If diverted by a distributor, the distributor shall perfect the exemption by filing a refund application with the department within six months after the diversion.

3. Motor vehicle fuel or use fuel that is sold within an Indian reservation to an enrolled member of the Indian tribe who is living on the Indian reservation established for the benefit of that Indian tribe and that is used by the enrolled member for the enrolled member's own benefit. This exemption does not apply to sales within an Indian reservation by an Indian or Indian tribe to non-Indian consumers or to Indian consumers who are not members of the Indian tribe for which the Indian reservation was established or to use fuel used to operate motor vehicles for a commercial purpose outside of the reservation on highways in this state. For the purposes of this paragraph, "Indian" means an individual who is registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was created.

4. Motor vehicle fuel or use fuel used solely and exclusively as fuel to operate a motor vehicle on highways in this state if the motor vehicle is leased to or owned by and is being operated for the sole benefit of an Indian tribe for governmental purposes only.

5. Motor fuel that is moving in interstate or foreign commerce and that is not destined or diverted to a point in this state.

6. Motor vehicle or aviation fuel that is sold to the United States or an instrumentality or agency of the United States.

7. Taxable use fuel that has been accidentally contaminated so as to be unsalable as highway fuel as proved by proper documentation.

8. Dyed diesel fuel, including fuel used by either of the following:

- (a) A farm tractor or implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

1 (b) A road roller or vehicle that is all of the following:
2 (i) Designed and used primarily for grading, paving, earthmoving or
3 other construction work on a highway.
4 (ii) Not designed or used primarily for transportation of persons or
5 property.
6 (iii) Incidentally operated or moved over the highway.
7 B. A USE CLASS VEHICLE SHALL PAY THE USE FUEL TAX FOR LIGHT CLASS
8 MOTOR VEHICLES PRESCRIBED BY SECTION 28-5606, SUBSECTION B, PARAGRAPH 1 IF
9 THE VEHICLE IS A TRUCK AND SATISFIES ALL OF THE FOLLOWING:
10 1. IS AT LEAST TWENTY-FIVE YEARS OLD.
11 2. HAS BEEN ISSUED A HISTORIC VEHICLE LICENSE PLATE PURSUANT TO
12 SECTION 28-2484.
13 3. IS NOT USED AS A COMMERCIAL VEHICLE.
14 ~~B.~~ C. Notwithstanding subsection A, paragraph 8 of this section, the
15 following are not exempt from use fuel taxes imposed by section 28-5606:
16 1. A vehicle that was originally designed for the transportation of
17 persons or property and to which machinery is attached or on which machinery
18 or other property may be transported.
19 2. A dump truck.
20 3. A truck mounted transit mixer.
21 4. A truck or trailer mounted crane.
22 5. A truck or trailer mounted shovel.
23 ~~C.~~ D. Except as provided in subsection ~~D~~ E of this section, a person
24 who claims an exemption pursuant to this section shall perfect the exemption
25 by claiming a refund pursuant to section 28-5612.
26 ~~D.~~ E. Subject to sections 28-5645 through 28-5649, dyed diesel fuel
27 is exempt from use fuel taxes at the time of sale.

APPROVED BY THE GOVERNOR APRIL 18, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2008.